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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,776	07/22/2003	Erin D. Harty	HARE101	8195
7590	09/16/2005		EXAMINER	
STEPHEN M. NIPPER DYKAS, SHAVER & NIPPER, LLP P.O. BOX 877 BOISE, ID 83701-0877			BALSIS, SHAY L	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

1.0 ✓

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/625,776	HARTY, ERIN D.	
	Examiner	Art Unit	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 22 July 2003.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

<ol style="list-style-type: none"> <li>1)<input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3)<input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>3/30/04</u>.</li> </ol>	<ol style="list-style-type: none"> <li>4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.</li> <li>5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</li> <li>6)<input type="checkbox"/> Other: _____.</li> </ol>
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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 9 and 17 recites the limitation "said applicator side" in line 2. There is insufficient antecedent basis for this limitation in the claim. Should claim 9 depend from claim 6, and claim 17 depend from claim 15?

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller (USPN 3924286).

Miller teaches a cleaning device comprising a head member (10) comprising a body member (32), a padding member (30) attached to the body member and a plurality of fibers (14) attached to the padding member (claim 1). The body member comprises a polyurethane foam (col. 2, lines 57-58) (claim 5). The body member has an applicator side for attaching to the padding member (figure 3) (claim 6). The padding member is attached to the body by an

adhesive means (claim 7). The padding comprises polyester foam (col. 2, lines 59-68, col. 3, lines 1-5) (claim 8). The padding member comprises an outer surface opposite an inner surface. The inner surface is attached to the applicator side of the body member and the fibers extend from the outer surface by means of an adhesive (figure 3, col. 2, lines 59-68, col. 3, lines 1-5) (claim 9).

Claims 1-3, 5-7, 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Barcikowski et al. (USPN 4244074).

Barcikowski teaches a cleaning device comprising a head member (figure 3) comprising a body member (32), a padding member (28) attached to the body member and a plurality of fibers (26) attached to the padding member (claim 1). The device is attached to a handle member (74) with a gripping section and a head mounting section (76) (claim 2). The handle member attaches to the head member through insertion of the head mounting section into the body member (figure 6) (claim 3). The body member comprises a polyurethane foam (col. 3, lines 56-62) (claim 5). The body member has an applicator side for attaching to the padding member (figure 3) (claim 6). The padding member is attached to the body by an adhesive means (30) (claim 7). The padding member comprises an outer surface opposite an inner surface. The inner surface is attached to the applicator side of the body member and the fibers extend from the outer surface by means of an adhesive (34) (claim 9). The fibers comprise polyamide fibers (col. 3, lines 3-6) (claim 10).

Claims 1-3, 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Sherry et al. (USPN 6003191).

Sherry teaches a cleaning device comprising a head member (600) comprising a body member (603), a padding member (605) attached to the body member and a plurality of fibers (601) attached to the padding member (claim 1). The device is attached to a handle member (figure 1a-c) with a gripping section and a head mounting section (claim 2). The handle member attaches to the head member through insertion of the head mounting section into the body member (figure 1a) (claim 3). The body member has an applicator side for attaching to the padding member (figure 7) (claim 6). The padding member is attached to the body by an adhesive means (col. 15, lines 25-44) (claim 7). The padding member comprises a polyester foam (col. 10, lines 52-60). The padding member comprises an outer surface opposite an inner surface. The inner surface is attached to the applicator side of the body member and the fibers extend from the outer surface by means of an adhesive (col. 15, lines 25-44) (claim 9). The fibers comprise polyamide fibers (col. 7, lines 27-31) (claim 10).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miller or Barcikowski or Sherry.

Miller or Barcikowski or Sherry discloses the claimed invention except that the body member comprises latex foam. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the body member from a latex foam, since it has

been held within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious engineering choice. *In re Leshin*, 125 USPQ 416.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barcikowski or Sherry.

Barcikowski or Sherry discloses the claimed invention except that the body member comprises polyurethane foam. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the body member from a polyurethane foam, since it has been held within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious engineering choice. *In re Leshin*, 125 USPQ 416.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barcikowski.

Barcikowski discloses the claimed invention except that the padding member comprises polyester foam. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the padding member from a polyester foam, since it has been held within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious engineering choice. *In re Leshin*, 125 USPQ 416.

Claims 2-3 and 11, 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller in view of Bailey (USPN 3720976).

Miller teaches all the essential elements of the claimed invention as stated above however fails to teach that cleaning device could be attached to a handle. Bailey teaches a cleaning device

that can be handle held or can be attached to a handle. The handle of Bailey is attached to the head by insertion of a head mounting section into a body member. It would have been obvious to one of ordinary skill in the art to modify Miller so that a handle could be attached to the device as taught by Bailey so that the device is capable of reaching hard to reach areas when attached to the handle as well as conform to irregular surfaces when the device is handheld (Bailey abstract).

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miller in view of Bailey.

Miller in view of Bailey discloses the claimed invention except that the body member comprises latex foam. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the body member from a latex foam, since it has been held within the general skill of a worker in the art to select a know material on the basis of its suitability for the intended use as a matter of obvious engineering choice. *In re Leshin*, 125 USPQ 416.

Claims 11, 13-18, 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barcikowski.

Barcikowski teaches all the essential elements of the claimed invention as stated above however fails to teach that the padding layer is made from a polyester foam. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the padding member from a polyester foam, since it has been held within the general skill of a worker in the art to select a know material on the basis of its suitability for the intended use as a matter of obvious engineering choice. *In re Leshin*, 125 USPQ 416.

Claims 11, 13-18, 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherry.

Sherry teaches all the essential elements of the claimed invention as stated above however fails to teach that the body member is made from a polyurethane foam material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the body member a polyurethane foam, since it has been held within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious engineering choice. *In re Leshin*, 125 USPQ 416.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barcikowski or Sherry.

Barcikowski or Sherry discloses the claimed invention except that the body member comprises latex foam. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the body member from a latex foam, since it has been held within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious engineering choice. *In re Leshin*, 125 USPQ 416.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L. Balsis whose telephone number is 571-272-1268. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Kim can be reached on 571-272-1142. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Slb  
9/7/05

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